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09/658,873	09/08/2000	John Elmore Schier	062891.0433	2968

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Baker Botts LLP  
2001 Ross Avenue  
Dallas, TX 75201-2980

EXAMINER

TRAN, TONGOC

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 03/24/2004

2

Please find below and/or attached an Office communication concerning this application or proceeding.

1/3

## Office Action Summary

Application No.

09/658,873

Applicant(s)

SCHIER, JOHN ELMORE

Examiner

Tongoc Tran

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. This office action is in response to applicant's application no. 09/658873 filed on 9/8/2000.

### *Claim Objections*

2. Claim 11 is objected to because of the following informalities:

The phrase "to be communication to" appears to be a typographical error

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 8-9, 12, 14-27, 30-36 and 38-41 are rejected under 35

U.S.C. 102(e) as being anticipated by Jardin (U.S. patent No. 6,671,810).

In respect to claim 1, Jardin discloses A communication network operable to provide a secure communication environment comprising:

Art Unit: 2134

a communication device operable to request the secure communication environment;

a communication server operable to be coupled to the initiating device; and the communication server operable to enable the secure communication environment (see col. 2, lines 1-6).

In respect to claim 2, Jardin disclose the network of Claim 1 further comprising:

a destination device operable to communicate information via the secure communication environment; and wherein the communication device comprises an initiating device operably coupled to the destination device (see col. 2, lines 1-6).

In respect to claim 3, Jardin discloses the network of Claim 1 wherein the server further comprises a database having at least one reference identifying an algorithm (see col. 4, lines 59-67).

In respect to claim 4, Jardin discloses the network of Claim 1 wherein the communication device comprises a storage medium operable to store at least one algorithm to be used in association with the secure communication environment (see col. 4, lines 59-67).

In respect to claim 5, Jardin discloses the network of Claim 1 wherein the communication server further comprises at least one algorithm operable to be communicated to the communication device (see col. 4, lines 34-39).

Art Unit: 2134

In respect to claim 6, Jardin disclose the network of Claim 1 wherein the communication device comprises a telephone (see col. 1, lines 13-24, most dial-up client system inherently comprises a telephone).

In respect to claim 8, Jardin discloses the network of Claim 1 wherein the communication device comprises a computer system (see col. 4, lines 59-63).

In respect to claim 9, Jardin discloses the network of Claim 1 further comprising the communication server operable to communicate information via the secure communication environment (see col. 4, lines 34-39).

In respect to claim 12, Jardin discloses the network of claim 2 wherein the initiating device is operable to communicate via the secure communication environment and the destination device is operable to communicate via a non-secure communication environment (see col. 1, lines 61-64, public network).

In respect to claim 14, Jardin discloses a method for providing a secure communication environment comprising:

determining availability of the secure communication environment in response to a request by communication device; and

providing a reference to the communication device operable to be used association with enabling the secure communication environment (see col. 2, lines 1-10).

In respect to claim 15, Jardin discloses the method of Claim 14 further comprising:

identifying an algorithm operably associated with an initiating device and a destination device; and providing the reference associated with the algorithm to

Art Unit: 2134

enable to secure communication environment by the initiating device and the destination device (see col. 4, lines 19-33).

In respect to claim 16, Jardin discloses the method of Claim 14 further comprising:

communicating an algorithm associated with the reference to a communication device operable to deploy the algorithm to provide the secure communication environment (see col. 4, lines 19-33).

In respect to claim 17, Jardin discloses the method of Claim 14 further comprising:

enabling the secure communication environment between the communication device and a communication server using an algorithm (see col. 4, lines 6-18).

In respect to claim 18, Jardin discloses the method of Claim 14 further comprising:

enabling the secure communication environment between an initiating using an algorithm (see col. 3, line 48-col. 4, line 5).

In respect to claim 19, Jardin discloses the method of Claim 14 further comprising:

processing information via a communication server using an algorithm (see col. 4, lines 34-39).

In respect to claim 20, The method of Claim 14 further comprising:

communicating information via a non-secure communication environment (see col. 1, lines 61-64).

Art Unit: 2134

In respect to claim 21, Jardin discloses a communication device operable to communicate via a communication network comprising:

a user interface operable to initiate communication with a communication server coupled to the communication network; and a processor operable to process information based upon an algorithm identified by the communication server col. 4, lines 19-33).

In respect to claim 22, Jardin discloses the communication device of Claim 21 further comprising:

the algorithm stored within a storage medium (see 4, lines 59-65).

In respect to claim 23, Jardin discloses the communication device of Claim 21 wherein the processor may be operable to deploy the algorithm to provide the secure communication environment (see col. 4, lines 19-33).

In respect to claim 24, Jardin discloses the communication device of Claim 21 wherein the processor may be operable to communicate with a destination device operable to process information in association with the algorithm (see col. 4, lines 19-33).

In respect to claim 25, Jardin discloses the communication device of Claim 22 wherein the storage medium is operable to store an algorithm communicated by the communication server (see col. 4, lines 19-33).

In respect to claims 26-27, the claim limitations are substantially similar to claim 6. Therefore, claims 26-27 are rejected based on the similar rationale.

In respect to claim 30, the claim limitation is a method claim that is substantially similar to the apparatus claim 21. Therefore, claim 30 is rejected based on the similar rationale.

In respect to claim 31, Jardin discloses the method of Claim 30 further comprising requesting service from the communication server (see col. 3, lines 47-54).

In respect to claim 32, Jardin discloses the method of Claim 30 further comprising receiving an instruction from the server identifying the algorithm (see col. 4, lines 29-33).

In respect to claim 33, Jardin discloses the method of Claim 30 further comprising identifying a destination device operable to be coupled to the communication device (see col. 4, lines 48-55).

In respect to claim 34, Jardin discloses the method of Claim 33 further comprising processing information received by the destination device based upon the algorithm (see col. 4, lines 48-55).

In respect to claim 35, Jardin discloses the method of Claim 30 further comprising deploying the algorithm in association with a telephone (see col. 4, line 59-col. 5, line 6).

In respect to claim 36, Jardin discloses the method of Claim 30 further comprising deploying the algorithm in association with a computer system (see col. 4, line 59-col. 5, line 6).



Art Unit: 2134

In respect to claim 38, the claim limitation is a system claim that is substantially similar to the apparatus claim 21. Therefore, claim 38 is rejected based on the similar rationale.

In respect to claim 39, Jardin discloses the system of Claim 38 further comprising means for identifying a destination device operable to be coupled to the communication device (see col. 3, line 48-col. 4, line 5).

In respect to claim 40, Jardin discloses the system of Claim 38 further comprising means for processing information based upon an algorithm operable to be used by the initiating device and the destination device (see col. 4, lines 19-33).

4. Claim 41 is rejected under 35 U.S.C. 102(e) as being anticipated by Aziz et al. (U.S. Patent No. 6,643,701, hereinafter Aziz).

In respect to claim 41, Aziz discloses the communication network operable to provide a secure communication environment comprising:

an initiating device operable to request the secure communication environment;

a destination device operable to communicate information via the secure communication environment; and a communication server operable to be coupled to the initiating device to determine if the initiating device and the destination device are operable to communicate via the secure communication environment (see col. 3, lines 25-45).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 28-29 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jardin (U.S. Patent No. 6,671,810).

In respect to claim 7, Jardin disclose the network of Claim 1. Jardin does not explicitly disclose wherein the communication device comprises a wireless communication device. However, wireless communication device are old and well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement these feature with Jardin to provide wireless communication device for the benefit of mobility.

In respect to claims 28-29 and 37, the claim limitations are substantially similar to claim 7. Therefore, claims 28-29 and 37 are rejected based on the similar rationale.

6. Claims 10-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jardin (U.S. Patent No. 6,671,810) in view of Aziz (U.S. Patent No. 6,643,701).

In respect to claims 10-11 and 13 Jardin discloses the network of Claim 2. Jardin does not explicitly disclose but Aziz discloses further comprising the

Art Unit: 2134

server (third computer) operable to determine if the initiating device (first computer) and the destination device (second computer) are operable to communicate via the secure communication environment; at least one algorithm operable to be communication to the destination device; a switching network operable to couple the initiating device and the destination device (see col. 3, lines 25-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the proxy (relay) acted as an intermediary (switching network) between the sender and the receiver for secure communication taught by Aziz to ensure that communication between the initiating device and the destination device have a secure connection (see Azize, col. 3, lines 40-44).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Son et al. Disclose a secure distribution of video on-demand.

-Sheymov et al. disclose a system and methods for communication protection.

-Lincke et al. Disclose a method, system and apparatus for packet minimized communications.

-Jonas et al. Discloses a method and apparatus for transmitting and routing voice telephone calls over a packet switched computer network.

-Vogler discloses a method for transferring an encryption key.

Art Unit: 2134

-Bilgic et al. Disclose an authentication and security in wireless communication system.

-Gerszberg et al. Disclose a coaxial cable/twisted pair cable telecommunications network architecture.

-Hsu et al. Disclose a digital wireless telephone system for downloading software to a digital telephone using wireless data link protocol.

-Applegate et al. Disclose a system and method for redirecting network traffic to provide secure communication.

-Bilgic et al. Disclose an authentication and security in wireless communication system.

-Maher disclose a secure communication method and apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tongoc Tran whose telephone number is (703) 305-7690. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A. Morse can be reached on (703) 308-4789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2134

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Tongoc Tran  
Art Unit: 2134

TT

March 10, 2004

*Matthew B. Smithers*  
MATTHEW SMITHERS  
PRIMARY EXAMINER  
*Art Unit 2137*